

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

This is a lawsuit brought by a state prisoner challenging a policy directive of the Michigan Department of Corrections concerning the handling of incoming prisoner mail. Plaintiff's lawsuit objects to the provisions of Policy Directive 05.03.118, implemented in the wake of the September 11, 2001 terrorist attacks and incidents of anthrax attacks through the United States mail. The policy directive required that all incoming prisoner mail be opened in a single location rather than requiring that a prisoner's "legal mail" be opened in the inmate's presence. On March 18, 2005, the court issued a fifty-six page opinion and an accompanying order which resolved all plaintiff's claims against all parties with the exception of plaintiff's request for prospective injunctive relief against defendant Patricia Caruso, Director of the Michigan Department of Corrections. (docket #'s 49, 50). The court's March 18, 2005 order established a schedule for defendant Caruso to file a brief and evidence responsive to plaintiff's request for prospective injunctive relief. On May 13, 2005, defendant filed a brief, supported by exhibits (docket # 55) establishing that on April 15, 2005, Judge Richard Alan Enslen of this court had issued an immediate

and permanent injunction in the case of *Mallory-Bey v. Michigan Department of Corrections, et al.*, 1:04-cv-137 (W.D. Mich. 2005), ordering that, “[T]he Michigan Department of Corrections is immediately and permanently enjoined from opening (outside the prisoner’s presence) the legal mail of any prisoner who properly requests, or has previously requested, that his or her legal mail be opened only in his or her presence.” On April 18, 2005, the Michigan Department of Corrections issued Director’s Office Memorandum 2005-10 which implemented the immediate changes required by Judge Enslen’s injunction. On June 15, 2005, plaintiff filed a brief (docket # 63) asserting that his claim for prospective injunctive relief against defendant Caruso is not moot. Upon review, the court finds that plaintiff’s arguments are without merit. The prospective relief plaintiff requested in this case against defendant Caruso was rendered moot by Judge Enslen’s injunction and the April 18, 2005 Director’s Office Memorandum. Accordingly, plaintiff’s remaining claim will be dismissed as moot and judgment entered in favor of defendants for the reasons specified in the March 18, 2005 opinion and order.

On April 13, 2005, plaintiff filed a motion for reconsideration of the court’s March 18, 2005 order (docket # 53). Upon review, the court finds no basis to disturb its order. More recently, plaintiff filed a “motion for a directed verdict” (docket # 59) and a motion to tax costs (docket # 58). The court finds no basis for granting either motion, and the motions will be denied.

Date: June 20, 2005

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
CHIEF UNITED STATES DISTRICT JUDGE